

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

920476-102241

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

10/562,381

Filed

June 23, 2006

First Named Inventor

Daniel Warren

Art Unit

2617

Examiner

Doan, Kiet M.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/GMK/

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

Signature

Glen M. Kellett

Typed or printed name

☒ attorney or agent of record.  
Registration number 60202

317-261-7959

Telephone number

☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

March 4, 2010

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below.

☒ \*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<i>Application No.:</i>	10/562,381	}	
		}	
<i>Confirmation No.:</i>	8167	}	
		}	
<i>Art Unit:</i>	2617	}	
		}	
<i>Examiner:</i>	Doan, Kiet M.	}	<b>ELECTRONICALLY</b>
		}	<b>SUBMITTED ON:</b>
<i>Application Title:</i>	<b>METHOD OF CALL ROUTING</b>	}	<b>MARCH 4, 2010</b>
		}	
<i>First Named Applicant:</i>	Daniel Warren	}	
		}	
<i>Filed:</i>	June 23, 2006	}	
		}	
<i>Attorney Docket:</i>	920476-102241	}	

**REASONS IN SUPPORT OF REQUEST FOR PRE-APPEAL CONFERENCE**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Contemporaneously with the filing of a Notice of Appeal and Pre-Appeal Brief Request for Review, please consider the following:

**Reasons**, which begin on page 2.

## REASONS

Appellants respectfully submit the following reasons in support of a contemporaneously filed Pre-Appeal Brief Request for Review. In the final Office Action dated November 04, 2009 (hereinafter "the Office Action"), each of pending claims 1-3, 6-13 and 15-26 stands rejected as being unpatentable over Lugo Saucedo (U.S. 7,155,201) in view of Houde (US 5,797,093). Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lugo Saucedo in view of Houde and in further view of Rhodes (US 6,922,565). Reconsideration of each of the rejected claims in light of the remarks presented herein is respectfully requested.

### CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

Each of independent claims 1, 6, 12, 13, 15, 17, 18, 20, 21, 23, 25, and 26 stands rejected as being unpatentable over Lugo Saucedo in view of Houde. Applicants respectfully traverse this rejection as improper because the Office Action failed properly evaluate the scope and content of Lugo Saucedo and Houde. When properly evaluated the proposed combination of Lugo Saucedo and Houde fails to disclose or render obvious each element of the independent claims 1, 6, 12, 13, 15, 17, 18, 20, 21, 23, 25, and 26

### LUGO SAUCEDO

The Office Action asserts that Lugo Saucedo discloses each element of the independent claims except for "routing information." Applicants respectfully disagree. Rather, Lugo Saucedo fails to disclose, at least, (i) "at a first network node, receiving location information relating to a subscriber originating a call," "sending said location information from said first network node to a second network node," "at said second network node, determining updated routing information based on said location information," "sending said updated routing information from said second network node to said first network node," and at said first network node, routing said call based on said updated routing information."

*(i) Lugo Saucedo fails to disclose "at a first network node, receiving location information relating to a subscriber originating a call."*

The Office Action asserts that Lugo Saucedo discloses "at a first network node, receiving location information relating to a subscriber originating a call." In support of this assertion, the Office Action directs Applicants to Column 5, lines 52-55 and step 400 of FIG. 3

of Lugo Saucedo. Additionally, the Office Action identifies the MSC 42 of Lugo Saucedo as the “first network node.” Applicants respectfully disagree. Rather, as clearly set-forth in Lugo Saucedo, the mobile station 10 initiates an emergency call in step 400, which is transmitted to the MSC 42. Lugo Saucedo, Col 5, ll. 52-55. However, during this initiation process, no positional data related to the MS 10 is transmitted to the MSC 42. In fact, Lugo Saucedo teaches away from transmitting positional data during step 400, which is originated by Subscriber-B, because the location of interest in Lugo Saucedo is the location of Subscriber-A. *Id.* at ll. 55-61. Accordingly, no positional data related to MS 10 is received by the MSC 42 in step 400, contrary to the Office Action’s assertion.

*(ii) Lugo Saucedo fails to disclose “sending said location information from said first network node to a second network node.”*

The Office Action also asserts that Lugo Saucedo discloses “sending said location information from said first network node to a second network node.” In support of this assertion, the Office Action directs Applicants to step 420 of FIG. 3 and identifies MSC 44 as the “second network node.” Applicants again disagree. Rather, as clearly set-forth in Lugo Saucedo, the HRL 25 transmits a request for the location of the MS 10, not the location or location data itself, to the MSC 44 in step 420. Lugo Saucedo, Col 6, ll. 9-14. In fact, Lugo Saucedo teaches that the position of the MS 10 is only determined by the PDE 20 in step 450, which is subsequently transmitted to the MPC 34. *Id.* at ll. 20-26. The MPC 34 forwards the position of the MS 10 to the MSC 44 in step 460. *Id.* at ll. 27-29. The MSC 44 subsequently transmits the position of the MS 10 to the HRL 25 in step 470. *Id.* at ll. 29-38. The HRL 25 forwards the position to the MSC 42 in step 480. *Id.* at ll. 38-41. However, Applicants have not found any teaching in Lugo Saucedo wherein the MSC 42 is disclosed as transmitting the position of the MS 10 to any other “node,” including the MSC 44.

*(iii) Lugo Saucedo fails to disclose “at said second network node, determining updated routing information based on said location information” and “sending said updated routing information from said second network node to said first network node.”*

Additionally, the Office Action asserts that Lugo Saucedo discloses “at said second network node, determining updated routing information based on said location information” and “sending said updated routing information from said second network node to

said first network node.” In support of this assertion, the Office Action directs Applicants to step 450 of FIG. 3, column 6, lines 23-26 and to steps 460 and 470 of FIG. 3, column 6, lines 26-33, respectively. Applicants again disagree. Lugo Saucedo simply fails to disclose “determining updated routing information.” As discussed in the prior paragraph, the position of the MS 10 is determined in step 450 by the PDE 20 and transmitted to the MPC 34. However, the position of the MS 10 is simply not equivalent to “updated routing information.” Additionally, the steps 460 and 470 of FIG. 3 are directed to transmission of the position of the MS 10 to the MSC 44 and the HRL 25, respectively. No step described in Lugo Saucedo is directed to “determining updated routing information” or transmitting such “updated routing information” to other nodes.

*(iv) Lugo Saucedo fails to disclose “at said first network node, routing said call based on said updated routing information.”*

Further, the Office Action asserts that Lugo Saucedo discloses “at said first network node, routing said call based on said updated routing information.” In support of this assertion, the Office Action directs Applicants to steps 480 and 490 of FIG. 3, column 6 lines 40-48. Again as discussed above, step 480 is directed to the transmission of the position of the MS 10 to the MSC 42. Subsequently, in step 490, the MSC 42 initiates a call to an Emergency Service Network Entity. However, none of these steps disclose “determining updated routing information” or “routing said call based on said updated routing information”

It appears that the Office Action may be arguing that Lugo Saucedo implicitly discloses determining routing information in step 490 to facilitate the call to the Emergency Service Network Entity. Assuming *arguendo* that such an interpretation of Lugo Saucedo is proper, Lugo Saucedo would still fail to disclose determining “updated” routing information or routing information “based on said location information” as determined by the second node. That is, Lugo Saucedo discloses that the routing information is determined only once and only by MSC 42, which has been identified by the Office Action as the “first node.” Accordingly, even under the proposed implicit teaching, Lugo Saucedo still fails to teach “routing said call based on said updated routing information.”

In view of the foregoing, Applicants respectfully submit that the Office Action has failed to properly determine the scope and content of Lugo Saucedo. Because the Office Action has failed to properly determine the scope and content of Lugo Saucedo, Appellants

respectfully request that the 35 U.S.C. § 103(a) rejection of the independent claims 1, 6, 12, 13, 15, 17, 18, 20, 21, 23, 25, and 26 be withdrawn for at least this reason.

## **HOUE**

As discussed above, the Office Action concedes that Lugo Saucedo fails to disclose “routing information.” The Office Action relies on Houde to overcome this deficiency of Lugo Saucedo. In this regard, the Office Action asserts that:

In an analogous art, Houde teaches “routing an emergency cellular telephone call.” Further, Houde teaches serving MSC 12(1) as read on first node that routing emergency call to appropriate SMC 12(n) see Col. 3, lines 50-56, Fig. 1 illustrate and described).

Therefore, it would have been obvious at the time the invention was made to modify Lugo Saucedo with Houde’s system such that receiving location information and then routing location information when the second node updated the location information in order to provide accurate location/position of the user where he/she making emergency call.”

Office Action, Page 5, line 15- Page 6, line 1. However, nothing in the Office Action’s above-quoted arguments nor in Houde itself discloses “routing said call based on said updated routing information.” Rather, Houde is simply directed to the concept of routing a call based on the MSC associated with the cell in which the caller is currently located, not on the anchor MSC. Accordingly, when an emergency call is initiated, Houde teaches that the anchor MSC 12(1) routes the call to the public safety answering point system 24 associated with the serving MSC 12(2) (i.e., the MSC associated with the cell in which the caller is currently located):

The anchor mobile switching center 12(1) then accordingly handles the emergency call by routing the call to the public safety answering point system 24 for the serving mobile switching center 12(2) rather than to the public safety answering point system 24 for the anchor mobile switching center 12(1).

Houde, Col. 5, lines 47-52. As such, Houde teaches routing an emergency call, but simply fails to teach determining updated routing information and routing the call based on such routing information. That is, similar to Lugo Saucedo, Houde teaches determining routing information only once. Accordingly, Houde fails to overcome the deficiencies of Lugo Saucedo.

In view of the foregoing, Applicants respectfully submit that the Office Action has failed to properly determine the scope and content of Houde. Because the Office Action has failed to properly determine the scope and content of Houde, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of independent claim 1, 6, 12, 13, 15, 17, 18, 20, 21, 23, 25, and 26 be withdrawn for at least this reason.

## CONCLUSION

For at least the above reasons, Appellants believe that each of pending claims 1-13 and 15-26 is in a condition for allowance and such action is respectfully requested. Additionally, Appellants understand that the pre-appeal review process has a limited scope. Appellants therefore hold in abeyance those arguments that are believed to be outside the scope of the pre-appeal review process without prejudice or admission made by the Examiner.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response. The Commissioner is hereby authorized to charge the fee for such Petition and any shortage of fees, and credit any overpayment of fees, to the Deposit Account No. 14-1315, with reference to file 16189IDSU03N.

Respectfully submitted,



Glen M. Kellett  
Registration No. 60,202  
Barnes & Thornburg  
11 South Meridian Street  
Indianapolis, Indiana 46204-3535  
Telephone: (317) 261-7959  
Fax: (317) 231-7433